

OFFICE OF THE SHERIFF



COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM MCDONNELL, SHERIFF

September 7, 2017

Date of Department Hire 05/02/2002

Deputy Karlos Millan, #[redacted]

Dear Deputy Millan:

On July 25, 2017, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under IAB File Number IV2431377. You were also advised of your right to review the material on which the discipline was based.

You are hereby notified that pursuant to an Education-Based Discipline (EBD) Agreement between you and this Department, dated September 6, 2017, you are suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of four (4) days. However, pursuant to the EBD agreement, the four (4) days will be held in abeyance for a period of twelve (12) months which will end on August 5, 2018. All Department records will reflect, nevertheless, that you received a four (4) day suspension. In accordance with the EBD Agreement, you have agreed to participate in an education-based alternative to discipline. Should you fail to complete any of the terms and conditions of the EBD Agreement, the four (4) days held in abeyance will be imposed.

An investigation under File Number IAB IV2431377, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, and/or Section 3-01/030.10 Obedience to Laws, Regulations, and Orders, as it pertains to Manual of Policy and Procedures Section 3-10/150.00, Tactical

Incidents, when on or about July 5, 2015, at approximately 2126 hours, you failed to conform to the work standards established for your rank and/or position of Deputy Sheriff and/or perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department, as evidenced by, but not limited to the following:

a. leaving your assigned containment position and approaching the targeted location without having an exigency to do so; and/or,

b. leaving your assigned containment position and approaching the targeted location without successfully and/or accurately communicating to your partners your actions; and/or,

c. conducting a solo a search and/or clearing of the outside of the targeted location; and/or,

d. conducting the search not using sound tactics by leading with your duty weapon.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

Prior to determining this disciplinary action, the Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

James P. Wolak, Captain
Lakewood Station

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules {when applicable}.

JPW:PC:pc

cc: Advocacy Unit
Buddy Goldman, Chief, South Patrol Division
Internal Affairs Bureau
Personnel Administration
Operation Safe Streets Bureau/Unit Personnel File

SETTLEMENT AGREEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department," and Deputy Karlos Millan, Employee Number [redacted] hereinafter referred to as "Grievant."

The Department and Grievant are parties to this dispute and desire to settle all issues involved in the Letter of Intent dated July 25, 2017, (IAB IV2431377) upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Grievant for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that the four (4) day suspension shall stand. The Letter of Imposition shall contain the same charges as the Letter of Intent.

2. The Department will, upon execution of this agreement, hold the four (4) days in abeyance pending completion of the below listed training.

3. The Grievant agrees to attend and complete the below listed Education Based Discipline (EBD) courses and understands that failure to complete the courses and assignments shall result in the imposition of the four (4) days held in abeyance:

- Lieutenant's Interactive Forum for Education (LIFE) class (8 hours)
- Laser I 8/25/2015 (8 hours) **(Completed)**
- Entry/Clearing Training, Detective Bureau 1/20/2016 (8 hours) **(Completed)**
- Firearms (CPT-PSP Centralized 11/11/2016 (8 hours) **(Completed)**
- Tactics & Survival (TAS) Laser Village 12/21/2016 (8 hours) **(Completed)**
- Write an EBD evaluation reflecting on your experience with the EBD process

4. The Grievant understands that if he becomes the subject of a founded investigation involving similar violations of the Manual of Policy and Procedures, and that if the event resulting in the founded investigation occurred within the twelve (12) month period of the date of execution of this agreement, the four (4) days held in abeyance shall be imposed. In addition, the Grievant understands that he will be subjected to additional discipline for each and every founded violation of the Department's Manual of Policy and Procedures.

5. The Grievant agrees to cooperate with his Unit Commander to complete the Education Based Discipline course and write the EBD evaluation as soon as practical, but no longer than one (1) year from the date of execution of this EBD agreement.

PRMS updated
9.6.17
JC

6. Both parties agree and understand that the Grievant's records will reflect that the four (4) day suspension was imposed and may be used for the purposes of demonstrating "progressive discipline."

7. The Grievant agrees to withdraw his grievance and waive any and all further administrative or judicial remedies with respect to the Letter of Imposition and the modified discipline, and also waives any administrative or judicial remedies with respect to any imposition pursuant to paragraph three (3) and paragraph four (4), above. This waiver shall include, but not be limited to, appeals to the Los Angeles County Civil Service Commission and/or the Los Angeles County Employee Relations Commission. The parties further agree that this Settlement shall not be considered, cited, or used in future disputes as establishing past precedent or past employment practice.

8. In consideration of the terms and conditions set forth herein, Grievant agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Grievant concerning the subject matter of the grievance referred to herein. Additionally, Grievant specifically acknowledges that he has not been the subject of discrimination in any form, including, but not limited to, discrimination, retaliation or harassment, based upon age, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, parental status, sexual orientation or gender and that he has no claim against the Department for any such discrimination, whether any such claim is presently known or not known by him.

9. The Grievant further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> *"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."*

10. The date of the last signature placed hereon shall hereinafter be known as the "date of execution" and the "effective date" of this agreement.

11. The parties agree that the foregoing comprises the entire agreement between the parties and that there have been no other promises made by any party. Any modification of this agreement must be in writing.

I have read the foregoing Settlement Agreement, and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

For the Sheriff's Department:

Date: 9/6/17

Deputy Karlos Millan
Employee #[redacted]

Date: 9/6/17

Richard J. Harpham, Acting Captain
Lakewood Station



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE



JIM MCDONNELL, SHERIFF

July 25, 2017

Deputy Karlos Millan, #[redacted]

Dear Deputy Millan:

You are hereby notified that it is the intention of the Sheriff's Department to suspend you without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department for a period of four (4) days.

An investigation under IAB File Number IV2431377, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of the Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, and/or Section 3-01/030.10 Obedience to Laws, Regulations, and Orders, as it pertains to Manual of Policy and Procedures Section 3-10/150.00, Tactical Incidents, when on or about July 5, 2015, at approximately 2126 hours, you failed to conform to the work standards established for your rank and/or position of Deputy Sheriff and/or perform your duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department, as evidenced by, but not limited to the following:

   a. leaving your assigned containment position and approaching the targeted location without having an exigency to do so; and/or,

b. leaving your assigned containment position and approaching the targeted location without successfully and/or accurately communicating to your partners your actions; and/or,

c. conducting a solo a search and/or clearing of the outside of the targeted location; and/or,

d. conducting the search not using sound tactics by leading with your duty weapon.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference. Prior to determining this disciplinary action, the Executive Force Review Committee and I have thoroughly reviewed the incident and your record with this Department.

You have the right to grieve this disciplinary action within ten (10) business days of receipt of this letter. Your grievance procedures may be found in your classification's negotiated Memorandum of Understanding.

At the time of service of this letter of intent, you were provided with a copy of the material on which the discipline is based. If you are unable to access the information provided in the enclosed CD, you may contact Patty Choe, of Internal Affairs Bureau, at (323) 890-5313, and arrange an appointment for assistance in this regard.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

JIM McDONNELL, SHERIFF

Original Signed

Richard J. Harpham, A/Captain
Lakewood Station

RJH:JSW:pc

cc: Advocacy Unit
Employee Relations Unit
Buddy Goldman, Chief, South Patrol Division
Internal Affairs Bureau
(File # IAB 2431377)

EFRC DISPOSITION WORKSHEET

Re: IV2431377 / SH 2382214
Subject: Karlos Millan #[redacted]
Investigator: Luan V. Dang, Internal Affairs Bureau
Advocate: Oscar A. Martinez, Advocate

DISPOSITION OF CHARGES

The following charges were prepared by the Advocacy Unit. Please indicate your disposition of the potential charges, and put any additional sustained charges (with reference to the investigation) on attached sheet(s).

Potential Charge(s):

1. That in violation of Manual of Policy and Procedures Section 3-01/050.10, Performance to Standards, and/or Section 3-01/030.10 Obedience to Laws, Regulations, and Orders, as it pertains to Manual of Policy and Procedures Section 3-10/150.00, Tactical Incidents, when on or about July 5, 2015, at approximately 2126 hours, Subject Millan failed conform to the work standards established for his rank and/or position of Deputy Sheriff and/or perform his duties in a manner which would tend to establish and maintain the highest standard of efficiency in carrying out the functions and objectives of the Department, as evidenced by, but not limited to the following:

   a. leaving his assigned containment position and approaching the targeted location without having an exigency to do so; and/or,

   b. leaving his assigned containment position and approaching the targeted location without successfully and/or accurately communicating to his partners his actions; and/or,

   c. conducting a solo a search and/or clearing of the outside of the targeted location; and/or,

   d. conducting the search not using sound tactics by leading with his duty weapon.

Evidence Reference:

Defenses/Conflicting Evidence:

Disposition:

__X__ **Charge founded as delineated**
_____ **Charge founded as modified**
_____ **Charge unresolved**
_____ **Charge unfounded**

Discipline Assessment

Review of Applicable Guidelines for discipline Section:

The Department's Guidelines for Discipline (Revised December 14, 2009) lists the following Analogous misconduct with associated disciplinary penalties:

Conduct	**Standard Discipline**
Performance to Standards • The failure to conform to work standards established for the member's rank or position.	W/R to Discharge

Determination of Discipline:

Based upon the attached assessment of mitigating and aggravating factors, the following discipline has been determined to be appropriate. This discipline is subject to revision upon receipt of the subject's response of grievance.

_____ **Discharge**
_____ **Reduction in Rank**
__X__ **Suspension with loss of pay and benefits for __4__ days**
_____ **Written Reprimand**
_____ **No discipline**

Assessment of Mitigating and Aggravating Factors:

The following describe the mitigating and aggravating factors in the determining the discipline in this investigation. Those factors include:

Intent	Truthfulness
Past Performance	Severity of Infraction
Degree of Culpability	Acceptance of Responsibility
Disciplinary History	Other Factors

Management has considered the subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to the disposition worksheet.

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IAB #SH 2382214

Miscellaneous Documents

- (11) Administrative Rights Force/Shooting Investigation form
- Forensic Identification Specialist II Cynthia Fortier's Field Investigation Notes



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

August 4, 2016

Captain Steven Katz
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Johnny Anderson
J.S.I.D. File #15-0330
L.A.S.D. File #015-13224-1352-013

Dear Captain Katz:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 5, 2015, fatal shooting of Johnny Anderson by a member of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

JAMES GARRISON
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Karlos Millan, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888

MEMORANDUM

TO: CAPTAIN STEVEN KATZ
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Johnny Anderson
J.S.I.D. File #15-0330
LASD File #015-13224-1352-013

DATE: August 4, 2016

The Justice System Integrity Division of the Los Angeles County District Attorney's Office (LADA) has completed its review of the July 5, 2015, fatal shooting of Johnny Anderson by Los Angeles County Sheriff's Department (LASD) Deputy Karlos Millan. We have concluded that Deputy Millan acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 11:00 p.m., on July 5, 2015. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based on investigative reports, forensic science firearms analysis reports, photographic evidence and witness statements prepared by the LASD and submitted to this office by LASD Sergeant Robert Martindale. The voluntary statements of Deputy Millan were considered in this analysis.

FACTUAL ANALYSIS

On July 5, 2015, a 9-1-1 caller saw [redacted] and Johnny Anderson, along with another male, enter a vacant house at [redacted] 215th Street in the City of Hawaiian Gardens.[1] The 9-1-1 caller, believing they were gang members, called to report the trespass and said they were smoking and drinking in the house. LASD dispatch broadcast the trespass call and Deputy Marcos Esquivel was assigned to respond.[2] Deputies Karlos Millan and Christopher Jauregui, who were on patrol in full uniform and a marked patrol car, heard the broadcast and responded to assist. While enroute, Esquivel directed Millan and Jauregui to provide a containment on 216th Street, one block south of the vacant house.

[1] [redacted] admitted that she and her [redacted] Johnny Anderson, had been homeless and occupying the vacant house for two days.

[2] The broadcast stated that several "415G's were inside smoking and drinking." No description of the term "415G's" was provided in the investigation, however, as explained later, Millan had previously responded to the vacant house for trespassing calls involving Hawaiian Gardens gang members. 415 is the Penal Code section that includes unlawful fighting and disturbing the peace.

Millan and Jauregui arrived, and Jauregui covered the parking lot at the apartment complex located at [redacted] 216th Street while Millan proceeded on foot to [redacted] 216th Street, a duplex located directly [redacted] of the vacant house where the trespass call originated.[3] A patrol helicopter operated by Aero Bureau Pilot Deputy Charles Gonzalez and Tactical Flight Deputy Russell Helbing also arrived, orbited over the area and advised the deputies of their observations. As the deputies were responding, Johnny Anderson had fled from the vacant house and entered the rear yard of the duplex on 216th Street.[4]

[redacted] a [redacted] of the [redacted] of the duplex, heard the helicopter flying above. Since the helicopter's light was shining into his room, [redacted] looked outside his bedroom window towards the rear of the property and saw Johnny Anderson walk from the side of the detached garage, stand and look around in the backyard. [redacted] did not recognize Anderson, who appeared to be alone.[5] [redacted] went to his [redacted] and told them that Anderson was in the backyard, and his [redacted] told him to call 9-1-1. [redacted] called 9-1-1 and reported a prowler at the residence. While [redacted] was speaking with the 9-1-1 operator, [redacted] saw that Millan was standing near the entrance to his driveway on the west side of the residence. Simultaneously, his [redacted] alerted him that someone was knocking on the door on the east side of his residence. [redacted] went to the east door and saw Anderson through a window in the door. [redacted] did not open the door and told Anderson to "Get away." Anderson asked [redacted] to let him come inside but [redacted] said no. [redacted] went to the door on the west side of his residence and told Millan that there was a gang member on the east side of the duplex.[6] Millan instructed [redacted] to remain inside the house and to keep the doors locked. Moments later, Millan was informed via broadcast that Helbing had observed an individual on the east side of the house.

Millan walked eastbound across the front yard of the duplex towards a closed gate that separated the front yard and the east side of the house. Unable to see over the gate, he stepped onto a planter against the south wall of the duplex. Millan withdrew his service weapon, peered over the gate and did not observe anyone on the east side of the house as he looked northbound. Believing that the suspect might be crouched down below him and right behind the gate, Millan focused on that area but was initially unable to see anything because it was too dark. As Millan continued looking downward behind the gate and moving his firearm over the top of the gate, Anderson "popped" up out of the dark area immediately behind the gate and grabbed at Millan's firearm. Fearing that

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[3] The residence at [redacted] 216th Street is a duplex on the [redacted] side of the street. Unit [redacted] is the front unit and is closest to 216th Street, and unit [redacted] is the rear unit. There is a driveway on the west side of the property that extends to a detached garage in the rear, and a side yard on the east side of the property that is separated from the apartment complex at [redacted] 116th Street by a [redacted] foot, [redacted] inch tall cinderblock wall. The duplex has motion sensor lighting and there are streetlights in the area. Several trees line the cinderblock wall. The front door of the rear unit is on the west side of the property and opens up to the driveway. An [redacted] inch tall curved brick planter runs adjacent to the south wall of the residence, and ends at a wooden gate that separates the front yard from the east side of the property. The wooden gate, which opens, is [redacted] feet, [redacted] inches tall and [redacted] feet wide. There is a small shed in the east side yard that is in the corner of the cinderblock wall and the wooden gate. The top of the shed extends higher than the cinderblock wall.

[4] [redacted] Anderson said he fled because he was the subject of an injunction imposed against Varrio Hawaiian Gardens gang members and did not want to go to jail. Johnny Anderson had been served with the injunction in Los Angeles Superior Court case number BC375773 on March 31, 2009, which prohibited him from trespassing on or in any property.

[5] [redacted] described Anderson as a male Hispanic with a shaved head, thin build and wearing a tank top. Anderson actually wore shorts and no shirt.

[6] [redacted] told investigators that he only motioned to Millan that there was someone on the east side of the residence but Millan said [redacted] spoke to him in Spanish.

Anderson was going to take his firearm and shoot him and the other deputies, Millan fired one round at Anderson.[7] Anderson stood up and Millan ordered him to the ground. Anderson complied and sat down. Jauregui arrived and Millan stepped back to radio for medical assistance and to advise that he had been involved in a shooting.[8]

Los Angeles Fire Department paramedics arrived, rendered medical treatment and pronounced Anderson dead at 9:58 p.m. On July 9, 2015, Los Angeles County Coroner Deputy Medical Examiner Keng-Chih Su performed a postmortem examination of Anderson's remains and determined Anderson suffered a single gunshot wound to the chest. An analysis of the wound showed that the projectile traveled from front to back, downward and slightly left to right.

An analysis of gunshot residue samples collected from Anderson's body revealed that he had many characteristic particles of gunshot residue on his right hand and several consistent particles of gunshot residue on his face. The presence of gunshot residue on Anderson's hand and face suggests that Anderson may have discharged a firearm or was otherwise in an environment of gunshot residue.[9]

Statement of Deputy Karlos Millan

On July 5, 2015, Deputy Millan worked as a [redacted] with his [redacted] Deputy Christopher Jauregui. Millan and Jauregui were in uniform and on patrol in a marked black and white patrol car in the City of Hawaiian Gardens. Deputies in another patrol unit were assigned to respond to a trespassing call in a vacant home located at [redacted] 215th Street, and Millan instructed Jauregui to add himself and Millan to the call. Millan was familiar with the vacant house because he had responded to it on previous occasions for trespassing calls involving Hawaiian Gardens gang members.[10] The other deputies advised Millan and Jauregui to respond to 216th Street to provide a containment south of the vacant house. Jauregui parked the patrol unit in front of the driveway of an apartment building located at [redacted] 216th Street, and he and Millan exited the vehicle. An air unit also responded overhead, and Millan coordinated with Deputy Helbing in the air unit to

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[7] A post-incident examination revealed that Millan's departmentally issued Beretta 9 millimeter service weapon was loaded with one round in the chamber and fourteen rounds in the magazine. Millan's service weapon was normally loaded with one round in the chamber and fifteen in the magazine; this is consistent with Millan having fired one round during the officer-involved shooting.

[8] At the time of the incident, Jauregui was still positioned in the parking lot of the adjacent apartment complex and did not witness the shooting. Also, due to the noise of the helicopter, Jauregui was unable to hear anything prior to the round being fired. Helbing had initially observed Anderson sitting on steps located on the east side of the property and then walk southbound in the direction of the gate. As Anderson walked in the direction of the gate, Helbing lost sight of him due to trees and vegetation blocking his view. Helbing observed Millan in the front yard approach the gate, walk away from it and heard him request paramedics and advise that he had been involved in a shooting. [redacted] and [redacted] were standing in the front of their residence and watched from directly across the street. They observed Millan step onto the planter, peer over the gate, bring his firearm up and immediately heard one round fired; each reported that they could not see Anderson because the gate was closed prior to Millan firing one round. [redacted] and [redacted] believed Millan yelled something prior to firing the round. [redacted] could not understand what Millan yelled and [redacted] thought Millan may have yelled, "Oh shit!" or "Oh crap!" [redacted] said he did not hear Millan say anything due to the noise from the helicopter. [redacted] also said Millan appeared startled, scared or possibly surprised that Anderson was right behind the gate. Following the shooting, Anderson was observed to be holding a pack of cigarettes and a lighter in his left hand.

[9] Although the analysis concluded that Anderson may have discharged a firearm due to the presence of gunshot residue on his hand and face, there is no evidence that Anderson discharged a firearm during the incident.

[10] The vacant home had numerous calls for service regarding gang activity.

confirm that he was at the correct location. Jauregui approached the parking lot of the apartment building and Millan approached the duplex located next door at [redacted] 216th Street, which was directly [redacted] of the vacant house.

As Millan stood in front of the duplex, he heard a broadcast over the radio that indicated a female was being detained at the vacant house and a request for assistance with potential individuals inside the house. Shortly thereafter, Millan received a broadcast indicating there was a prowler at the duplex. [redacted] a [redacted] of the [redacted] unit, opened the front door to the residence, located on the west side of the property, and waived Millan over. Millan pointed to his eyes and signaled to Jauregui to keep an eye out, and then approached [redacted] told Millan in Spanish that there was a gang member on the east side of the duplex. Millan instructed [redacted] to remain inside the house and to keep the doors locked. Millan advised via radio that there was an individual on the east side of the house, and he was informed that the air unit had observed an individual on the east side of the duplex.

Millan walked eastbound across the front yard of the duplex towards a closed gate that separated the front yard and the east side of the house. To see over the gate, he stepped onto the planter that ran along the south wall of the duplex and ended at the gate.[11] Facing the wall, Millan withdrew his service weapon with his right hand and held onto the wall of the duplex with his left hand.[12] He peered over the gate looking northbound and did not observe anyone on the east side of the house.[13] Believing that the suspect might be crouched down below him and right behind the gate, Millan began to focus on that area. Initially unable to see anything in the area right behind the gate, Millan began looking downward behind the gate and moving his firearm over the top of the gate. As Millan looked over the gate, Anderson "popped" up out of the dark area behind the gate and grabbed at Millan's firearm.[14] Fearing that Anderson was going to take his firearm and shoot him and the other deputies, Millan fired one round at Anderson.

After Millan fired the round, Anderson stood up and Millan observed that the gate had come ajar. Millan opened the gate further and ordered Anderson to the ground. Anderson sat down and slumped over. Jauregui arrived and Millan stepped back to broadcast that he had been involved in an officer-involved shooting.[15]

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[11] Millan is five feet, ten inches tall.

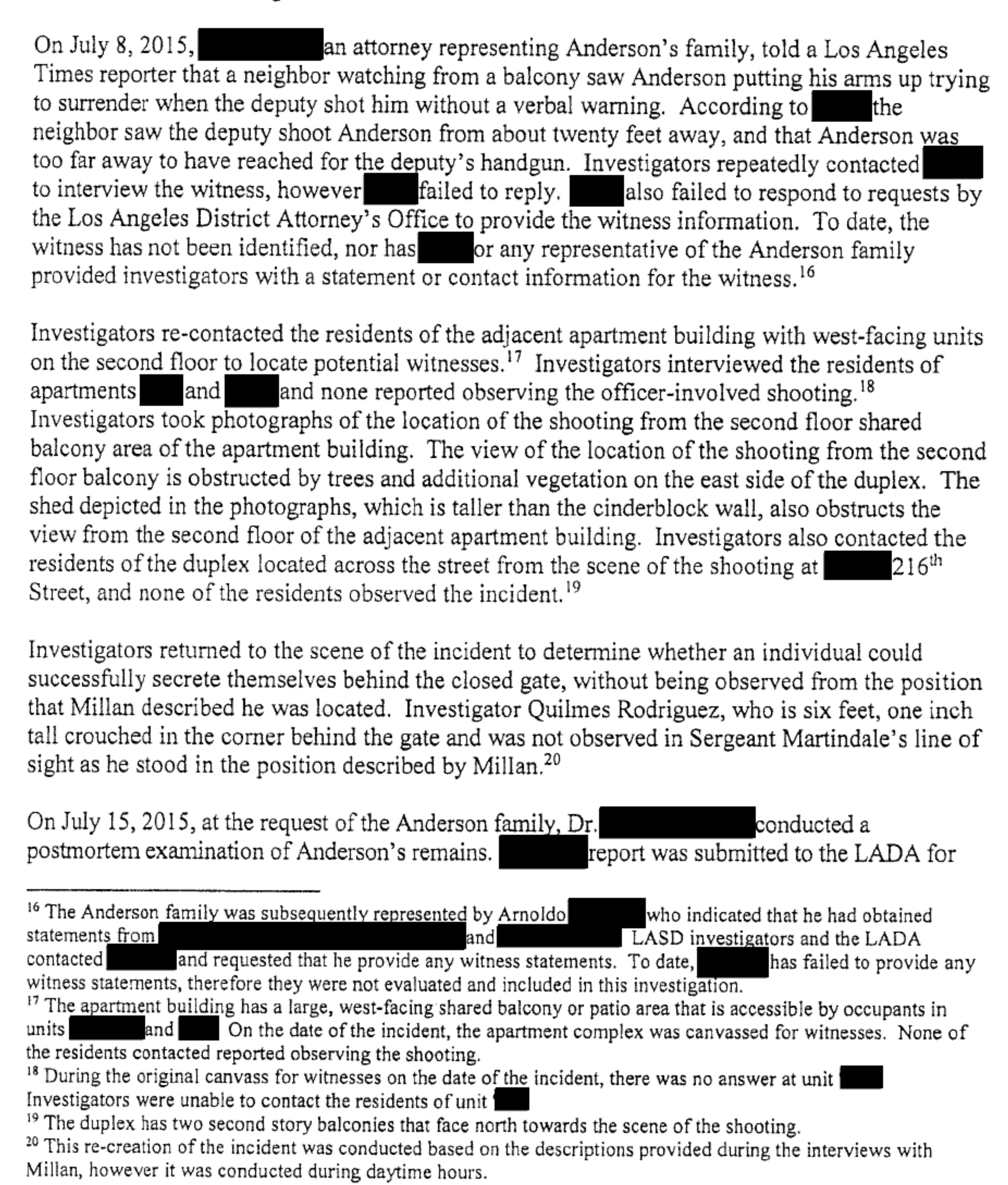
[12] Fabian [redacted] said that Millan held his flashlight in his left hand and illuminated the area with it. [redacted] said Millan was not holding a flashlight. [redacted] also said that Millan could not have been holding onto the gate with his left hand because of the way he was standing on the planter, but she was unsure what his left hand was doing. [redacted] said Millan touched the wall of the duplex with his left hand to maintain balance.

[13] As Millan looked over, the top of the gate was approximately at his clavicle and his firearm remained behind the gate. Millan said the area had dim lighting at the time but was not completely dark. The helicopter was orbiting north of the gate and its spotlight was not focused on the area behind the gate. [redacted] and [redacted] also reported that the helicopter spotlight was not illuminating the gate area, although [redacted] said the entire area was illuminated.

[14] Millan said Anderson "popped up" because he just appeared from the dark area behind the gate. Millan could not determine if Anderson had been kneeling or crouching down before he "popped up", but said that he would have been able to see the top of Anderson's head had Anderson been standing up. Anderson was five feet, eight inches tall. Millan did not know which hand Anderson used to grab at the firearm, but his hand came within inches of Millan's firearm.

[15] Millan knew that a deputy arrived immediately after he fired the round but he was focused on Anderson and did not know which deputy it was.

Additional Information



The duplex is equipped with surveillance cameras affixed to the eaves on the southwest, northwest and northeast corners of the residence, however they were non-operational and only installed as a deterrent. Surveillance cameras attached to the residence across the street from the location of the incident were not positioned to capture activity outside of its property and did not capture the officer-involved shooting.

On July 8, 2015, [redacted] an attorney representing Anderson's family, told a Los Angeles Times reporter that a neighbor watching from a balcony saw Anderson putting his arms up trying to surrender when the deputy shot him without a verbal warning. According to [redacted] the neighbor saw the deputy shoot Anderson from about twenty feet away, and that Anderson was too far away to have reached for the deputy's handgun. Investigators repeatedly contacted [redacted] to interview the witness, however [redacted] failed to reply. [redacted] also failed to respond to requests by the Los Angeles District Attorney's Office to provide the witness information. To date, the witness has not been identified, nor has [redacted] or any representative of the Anderson family provided investigators with a statement or contact information for the witness.[16]

Investigators re-contacted the residents of the adjacent apartment building with west-facing units on the second floor to locate potential witnesses.[17] Investigators interviewed the residents of apartments [redacted] and [redacted] and none reported observing the officer-involved shooting.[18] Investigators took photographs of the location of the shooting from the second floor shared balcony area of the apartment building. The view of the location of the shooting from the second floor balcony is obstructed by trees and additional vegetation on the east side of the duplex. The shed depicted in the photographs, which is taller than the cinderblock wall, also obstructs the view from the second floor of the adjacent apartment building. Investigators also contacted the residents of the duplex located across the street from the scene of the shooting at [redacted] 216th Street, and none of the residents observed the incident.[19]

Investigators returned to the scene of the incident to determine whether an individual could successfully secrete themselves behind the closed gate, without being observed from the position that Millan described he was located. Investigator Quilmes Rodriguez, who is six feet, one inch tall crouched in the corner behind the gate and was not observed in Sergeant Martindale's line of sight as he stood in the position described by Millan.[20]

On July 15, 2015, at the request of the Anderson family, Dr. [redacted] conducted a postmortem examination of Anderson's remains. [redacted] report was submitted to the LADA for

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[16] The Anderson family was subsequently represented by Arnoldo [redacted] who indicated that he had obtained statements from [redacted] and [redacted] LASD investigators and the LADA contacted [redacted] and requested that he provide any witness statements. To date, [redacted] has failed to provide any witness statements, therefore they were not evaluated and included in this investigation.

[17] The apartment building has a large, west-facing shared balcony or patio area that is accessible by occupants in units [redacted] and [redacted] On the date of the incident, the apartment complex was canvassed for witnesses. None of the residents contacted reported observing the shooting.

[18] During the original canvass for witnesses on the date of the incident, there was no answer at unit [redacted] Investigators were unable to contact the residents of unit [redacted]

[19] The duplex has two second story balconies that face north towards the scene of the shooting.

[20] This re-creation of the incident was conducted based on the descriptions provided during the interviews with Millan, however it was conducted during daytime hours.

consideration by [redacted] the Anderson family attorney.[21] [redacted] determined that Anderson suffered a single gunshot wound to the chest. [redacted] found that the projectile traveled from front to back and downward. [redacted] did not find gunshot residue or powder burns on the actual gunshot wound.[22] [redacted] opined that the lack of gunshot residue or powder burns indicated that Anderson was shot from more than two feet away, and that the origin of the shot most likely originated from a slightly greater height than the decedent, or the decedent may have bent slightly forward prior to the shot.[23]

Millan's Beretta handgun was tested to determine the maximum "end point" from which gunshot residues are deposited after discharge. Utilizing various known muzzle to target distances, it was determined that while some minimal gunshot residue particles were observed at a muzzle to target distance of twenty-four inches, no gunshot residues were observed at a muzzle to target distance of thirty inches.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082; *see also,* CALCRIM No. 505.

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575, 589.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight….The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

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[21] [redacted] also submitted a power-point slideshow based on the statements he obtained from [redacted] and [redacted] findings. As previously explained, [redacted] failed to provide the witness statements, therefore they could not be considered in this analysis.

[22] [redacted] analysis appears to be based solely on a visual analysis of the entrance to the site of the wound, and was not the chemically or instrumentally detected primer and propellant analysis of residues that is the standard method for gunshot residue analysis on the body or clothing. Additionally, Deputy Medical Examiner Su did not find soot or stippling at the entrance to the gunshot wound, which is consistent with [redacted] findings.

[23] [redacted] report does not address the presence of gunshot residue on Anderson's hand or face.

CONCLUSION

The evidence examined in this investigation shows that Johnny and [redacted] were trespassing in a vacant house at [redacted] 215th Street, and Johnny Anderson fled when deputies responded to a trespassing call of gang members drinking and smoking at the location. Anderson fled southbound, into the rear yard of a duplex located at [redacted] 216th Street, where he was seen by [redacted] After notifying his [redacted] that Anderson was in the rear yard, [redacted] called 9-1-1 to report Anderson.

Deputies Karlos Millan and Christopher Jauregui responded to assist on the original trespass call and provided a containment on 216th Street, in front of the duplex and the adjacent apartment complex. Millan was familiar with the vacant house because he had responded to previous trespass calls regarding Hawaiian Gardens gang members. Anderson knocked on the east door of [redacted] residence and [redacted] told him to "Get away" and refused to let him inside. Millan received an updated broadcast that there was a prowler on the east side of the duplex and then [redacted] told him that there was a gang member on the east side of the duplex. Shortly thereafter, Tactical Flight Deputy Russell Helbing broadcast that he saw someone on the east side of the duplex.

Walking eastbound across the front yard of the duplex to investigate, Millan approached a closed gate separating the front yard and the east side of the house. Millan stepped onto a planter to see over the gate, withdrawing his service weapon. He peered over the gate but did not initially observe anyone. Believing that the suspect might be crouched down below him right behind the gate, Millan looked downward behind the gate while raising his firearm over the gate. Anderson sprung up out of the dark, grabbing at Millan's firearm and coming within inches. In reasonable fear of death or great bodily injury to his own life and to the lives of the other deputies, Millan fired his service weapon once at Anderson.

Millan's statements regarding Anderson successfully concealing himself behind the gate, then springing up and grabbing for Millan's service weapon with one hand and coming within inches of it is consistent with the presence of gunshot residue on Anderson's face and right hand. The analysis of Millan's service weapon and the maximum "end point" from which gunshot residues are deposited after discharge being between twenty four and thirty inches corroborates Millan's statements that the shooting occurred within a very short distance.

Given the rapidly evolving, life threatening situation that confronted Deputy Millan, we conclude that he acted lawfully in self-defense. We are therefore closing our file and will take no further action in this matter.